

## **CONSERVATORSHIP CALENDAR NOTES**

**March 24, 2015**

**2:30 p.m., Department 40**

The following are the Conservatorship Calendar Notes for the conservatorship calendar set for hearing March 24, 2015, 2:30 p.m. in Department 40, Commissioner Michael A. Jacques, presiding. Department 40 is located at 10820 Justice Center Drive, Roseville, California.

IF THE CALENDAR NOTES STATE THAT A DOCUMENT IS MISSING AND YOU HAVE A FILE-ENDORSED COPY OF THAT DOCUMENT, PLEASE FAX A COURTESY COPY OF THAT DOCUMENT TO (916) 408-6275. THE COURT DOES NOT ACCEPT DIRECT FAXES FOR FILING. ANY UNFILED DOCUMENT FAXED TO THIS LINE WILL NOT BE FILED.

Pursuant to Local Rule 80.1.4, these calendar notes are not a tentative ruling on the merits of any matter before the court. Updated calendar notes will ordinarily be posted on the court day prior to the hearing, but may be posted at any time. If you have questions regarding the calendar notes, please contact the probate research attorney at (916) 408-6119 after checking for updated notes. Do not contact Department 40 directly.

Telephone appearances for this calendar are governed by Local Rules 20.8. and 80.1.2 (effective July 1, 2014). More information is available at the court's website, [www.placer.courts.ca.gov](http://www.placer.courts.ca.gov). For assistance, please contact the Civil Division.

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**1. S-PR-0005250 Brousseau, Paul - In Re the Conservatorship of**

Clarification is needed: ¶ 5 of the petition includes inconsistent total hours.

**2. S-PR-0005383 Curwick, Myrtle G. - In Re the Conservatorship of**

**Amended fourth account**

The account is not verified, in derogation of Prob.C. § 1021. It appears that no prior accounts were verified.

Service to conservatee is inadequate. Service is required to conservatee at her residence, not at conservator's residence. C.R.C. 7.51(a)(1)-(2).

Accounting schedules are confusing and not in standard format. For example, annuity entries appear to be listed as cash income and increases to value of property on hand and as expenditures to the estate when paid into the operating account. The accounting should be revised to clarify actual income / gains and expenses / losses.

It is recommended the court issue an order to show cause why conservator should not be required forthwith to return \$9,701.99 to the conservatorship estate, the amount that appears to be the overpayment in conservator fees, as well as any conservator fees

paid on or after January 1, 2014 to the present. The petition admits the overpayment. The court notes that conservator has not been authorized to prepay any conservator fees since May 31, 2010. The order on second account authorized prepaying fees only through May 30, 2010, and no order was ever signed after the third account was approved. The minutes approving the third account do not record any court authorization to continue prepaying fees. The account provides no legal or factual basis for the prepayment of fees, the overpayment of fees, or the request to simply credit the substantial overpayment to fees that may be requested for the period commencing January 1, 2014.

It is recommended the court issue an order to show cause why conservator should not be surcharged \$14,295.48, the amount listed in the account as an unknown payment for what conservator "estimates" were taxes, penalties and interest. Former conservator bears the burden of justifying all expenses. Petitioner has offered no evidence whatever to justify this expense.

It is recommended that for both of the foregoing paragraphs, the order to show cause additionally require petitioner to show why he should not be required to pay interest at the legal rate from and after January 1, 2014, on both sums.

It is further recommended that counsel be appointed to represent conservatee in further proceedings on the amended fourth accounting, including any OSC(s) issued by the court against conservator.

Although these calendar notes have been published for several hearings, former conservator has filed nothing to clarify, amend, or otherwise address any of the noted deficiencies.

#### Fifth account

The account is not verified, in derogation of Prob.C. § 1021. It appears that no prior accounts were verified.

Additional information is needed: conservator made at least 29 cash payments to himself "on account" of between \$50 and \$800 with no explanation whatever of the purpose of these payments or how the money was used.

Conservator made an unexplained cash withdrawal on December 18, 2014.

The account includes numerous disbursements described as "Bank error" without explanation. For example, a September 9, 2014, disbursement is labeled "Debit Purchase TracFone – Bank error" without explanation. Conservator must explain each such "bank error".

All requested conservator fees should be denied. In the fourth account, former conservator admits overpayments of more than \$9,700.00 and previously represented that such overpayments should be applied to 2014 conservator fees. However, in this account, petitioner requests fees of \$6,200.00 with no mention of the previous overpayments. The declaration in support of fees provides no information required by C.R.C. 7.751, 7.756 & 7.702.

#### Petition to fix residence outside California

Appearance is required for hearing on petition to fix residence outside California.

**3. S-PR-0006040 Deboard, Linda - In Re the Conservatorship of**

Appearance is required for hearing on first account.

Missing verification, Prob.C. § 1021.

Missing service of notice of hearing and account to conservatee Linda DeBoard.

Clarification is needed: account ¶ 9 indicates that the right to pre-pay conservator fees expired after May 2014; account Schedule C shows that conservator continued to charge fees on account without court authorization from and after June 2014. Request for conservator fees is not supported by a declaration which includes information required by C.R.C. 7.751, 7.756 & 7.702.

Request for attorney fees is not supported by a declaration which includes all information required by C.R.C. 7.751 & 7.702.

Clarification is needed: the account shows numerous purchases of mutual fund shares. There is no order authorizing the purchase of mutual funds, which are otherwise prohibited investments, Prob.C. § 2570 et seq.

Missing all original financial account statements, Prob.C. § 2620(c)(2)-(3).

Missing all original long-term care residential bill statements, § 2620(c)(5).

The report omits any discussion of the sufficiency of bond, despite the estate value declining by more than one-third during the period of account.

**4. S-PR-0006163 Cunningham, Dorothy E. - In Re the Conservatorship of**

Appearance is required for hearing on second account.

Value of property on hand (both cash and non-cash assets) conflicts with property on hand at the end of the first account.

Missing original financial account statements, Prob.C. § 2620(c)(2)-(3).

Account is in improper simplified format. Where disbursement schedule exceeds 5 pages, standard format (categorized by payee) is required, C.R.C. 7.575(b)(4).

Information provided in ¶ 3.3 is insufficient to explain the more than 90 "household expense" payments.

August 27, 2012, account maintenance fee is insufficiently described.

**5. S-PR-0007475 Fontana, Mildred - In Re the Conservatorship of**

Appearance is required for hearing on first / final account.

Missing notice of hearing. Missing proof of service of notice of hearing.